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OFFICE OF THE SECRETARY,
FEDERAL COMMUNICATIONS COMMISSION,
1919 M STREET, NW, ROOM 222,
WASHINGTON, D.C. 20554,
U.S.A.

Ruj. Tuan:
Your Ref.:

Ruj. Kami: JTM 10/3092.02(32)
Our Ref.:

Tarikh: 30th. January 1997
Date:

Dear Sir,

**COMMENTS ON FCC's PROPOSED REVISION TO INTERNATIONAL SETTLEMENT
RATE BENCHMARKS IB DOCKET NO. 96 - 211 BY JABATAN TELEKOM MALAYSIA
(DEPARTMENT OF TELECOMMUNICATIONS MALAYSIA)**

With reference to the FCC's Notice of Proposed Rulemaking in the matter of International Settlement Rates, IB Docket No. 96 - 261, Jabatan Telekom Malaysia is pleased to submit the attached documents for your consideration. Jabatan Telekom Malaysia recommends that the Commission should not adopt its proposals to unilaterally set accounting rate benchmarks as such issues should be properly addressed at the appropriate multilateral fora.

Thank you.

Best Regards,

(HAJI HOD BIN PARMAN)
Director General of Telecommunications
Jabatan Telekom Malaysia
Kuala Lumpur

C.C:

Miss Kathryn O'Brien,
International Bureau, FCC,
2000 M St., NW Room 822,
Washington, D.C. 20554,
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of)
) **IB Docket No. 96-261**
International Settlement Rates)

To: The Commission

COMMENTS OF

Director General
Jabatan Telekom Malaysia (Dept. of Telecommunications Malaysia)
Wisma Damansara
Jalan Semantan
50668 KUALA LUMPUR
MALAYSIA

JABATAN TELEKOM MALAYSIA submits these comments on the FCC's Notice of Proposed Rulemaking relating to International Settlement Rates - IB Docket No. 96-261.

Jabatan Telekom Malaysia (JTM) as the regulatory body of the Telecommunications Industry in Malaysia takes note of FCC's Notice of Proposed Rule Making (NPRM) relating to International Settlement Rates.

Upon closer examination of this notice, JTM is of the view that the FCC's action to impose benchmarking of international settlement rates within a stipulated timeframe as contained in the NPRM, is a form of unilateral action by FCC to extend its regulatory rules on other countries. This approach by the FCC to accelerate the process of accounting rate reduction is taking a step too far in trying to exercise its jurisdiction beyond its home country.

The international accounting rate arrangements have been recommended by an international recognised body such as the ITU in its Recommendation D140 which supports the practice of bilateral negotiations of accounting rates between two countries. In addition the International Telecommunication Regulations Article 6.2.1 states:-

“ For each applicable service in a given relation, administrations shall by mutual agreement establish and revise accounting rates to be applied between them, in accordance with the provisions of Appendix 1 and taking into account relevant CCITT Recommendations and relevant cost trends.”

JTM does not intend to provide detailed comments to the NPRM as we do not agree that bilateral or multilateral international accounting rate settlements are within the jurisdiction of the FCC. Our key comments are indicated below:-

1. JTM views the NPRM as an infringement of the sovereign rights of nations to regulate their own telecommunication industries as enshrined in the ITU Convention and in the preamble of the International Telecommunication Regulations.
2. JTM totally disagrees with the methodology of benchmarking accounting rates and any effort to introduce this methodology should be discussed in the internationally recognised forum such as the ITU-T Study Group 3. This methodology is arbitrary since cost figures are hardly available and does not take into consideration the requirements of the developing countries including their lack of economies of scale and also the fact that all equipment are purchased from the advanced countries.

3. JTM believes that the benchmark settlement rates proposed in the NPRM are not realistic and do not reflect the situation in the developing countries. There are huge differences in underlying costs between developing countries and the advanced countries where networks have reached maturity.
4. The growing imbalance in accounting rate settlement is primarily attributable to the proliferation of non-traditional business that carriers in the US have been promoting through callback and refile in order to gain a bigger slice of the international calls market revenue from other carriers. Therefore benchmarking settlement rates will not necessarily correct the traffic imbalance and the resulting outpayment by US carriers because the basic fundamentals of traffic imbalances have not been addressed in the NPRM.
5. JTM believes that the traffic imbalance and outpayment by the US will continue to accelerate even when accounting rates reach the proposal settlement rate levels. This, then begs the question of what would be the next step? JTM believes that if the raison d'être of the NPRM is to reduce the outpayment by the US carriers, then one of the obvious way forward is for the US to ban the call back service. According to one estimate by Jardine Fleming Securities Limited, the US\$1.7 billion outpayment to Asia by US carriers could be halved if call back service is banned by the FCC.
6. The introduction of the benchmarking rule will have dire economic ramifications to the developing countries. Examples such as the trade imbalances between developing and developed countries are economic issues that will not be adequately dealt with by lowering of accounting rates. JTM believes that with the liberalisation of the global economy, accounting rate settlements are commercially negotiated issues and should be left to market forces. The unilateral enforcement of a benchmarked settlement rates as proposed in the NPRM would tantamount to interference of the basic principle of any freely negotiated contract amongst carriers.

7. The FCC has set 7 February 1997 as the initial response deadline. This does not leave much time for most countries to study in greater detail on the possible implications of such rulings have on their respective home industry and also to jointly discuss on a multilateral basis with other countries with regards to the approach towards cost based accounting rates. It will be impossible for any country to comment in any detail on this method within the specified time frame as set by FCC.

In conclusion, JTM strongly objects to FCC's NPRM. JTM believes that issues relating to international accounting rates should be appropriately addressed in international fora such as the ITU Study Group 3 and WTO and that the FCC's unilateral action claiming authority to benchmark settlement rates for other countries clearly exceeds its jurisdiction.

Submitted by:



(HJ HOD PARMAN)
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29 January 1997